

§ 744.15

reexports to organizations designated as Foreign Terrorist Organizations (FTOs) pursuant to section 219 of the INA. The Department of the Treasury, Office of Foreign Assets Control, maintains 31 CFR part 597, the Foreign Terrorist Organizations Sanctions Regulations, requiring U.S. financial institutions to block all financial transactions involving assets of designated FTOs within the possession or control of such U.S. financial institutions. Section 303 of the Anti-Terrorism Act prohibits persons within the United States or subject to U.S. jurisdiction from knowingly providing material support or resources to a designated FTO and makes violations punishable by criminal penalties under title 18, United States Code. These designated FTOs are listed in Appendix A to 31 CFR Chapter V and identified by the bracketed initials [FTO]. A designation of a foreign organization determined to meet the criteria of section 219 of the INA takes effect upon publication in the FEDERAL REGISTER by the Secretary of State, or the Secretary's designee.

(a) *License requirement(s)*. (1) A license requirement applies to the export or reexport to an FTO of any item subject to the EAR.

(2) U.S. persons must seek authorization from BIS for the export or reexport to an FTO of any item subject to the EAR.

(3) Non-U.S. persons must seek authorization from BIS for the export from abroad or reexport to an FTO of any item subject to the EAR.

(4) Any export or reexport to an FTO by any person of any item subject to the EAR and not authorized by BIS is a violation of the EAR.

(5) These licensing requirements supplement any other requirements set forth elsewhere in the EAR.

(b) *Exceptions*. No License Exceptions or other BIS authorization for items described by paragraph (a) of this section are available for exports or reexports to FTOs.

(c) *Licensing policy*. Applications for exports and reexports to FTOs of all items identified by paragraph (a) of this section will generally be denied, to the extent they constitute material

15 CFR Ch. VII (1–1–07 Edition)

support or resources, as defined in 18 U.S.C. 2339A(b).

(d) *Contract sanctity*. Contract sanctity provisions are not available for license applications reviewed under this section.

(e) *FTOs also designated as SDTs or SDGTs*. In cases in which an FTO is also an SDT, as described in § 744.13, or an SDGT, as described in § 744.12, the license requirements and licensing policy set forth in § 744.13 or § 744.12 will apply.

NOTE TO § 744.14: This section does not implement, construe, or limit the scope of any criminal statute, including (but not limited to) 18 U.S.C. 2339B(a)(1) and 2339A, and does not excuse any person from complying with any criminal statute, including (but not limited to) 18 U.S.C. 2339B(a)(1) and 18 U.S.C. 2339A.

[68 FR 34195, June 6, 2003]

§ 744.15 Restrictions on exports and reexports involving persons named in General Orders.

Certain General Orders set forth in Supplement No. 1 to part 736 of the EAR require licenses for exports and reexports involving certain persons (individuals and other legal entities). The requirement to comply with General Orders is set forth in section 736.2(b)(9) of the EAR.

[71 FR 32274, June 5, 2006]

§ 744.16 [Reserved]

§ 744.17 Restrictions on certain exports and reexports of general purpose microprocessors for “military end-uses” and to “military end-users.”

(a) *General prohibition*. In addition to the license requirements for anti-terrorism reasons set forth in part 742 of the EAR, you may not export or reexport commodities described in ECCN 3A991.a.1 on the CCL (“microprocessor microcircuits”, “microcomputer microcircuits”, and microcontroller microcircuits having a “composite theoretical performance” (“CTP”) of 6,500 million theoretical operations per second (MTOPS) or more and an arithmetic logic unit with an access width of 32 bit or more), without a license if, at the time of the export or reexport, you know, have reason to know, or are

informed by BIS that the item will be or is intended to be used for a “military end-use,” as defined in paragraph (d) of this section, in Country Group D:1 (see Supplement No. 1 to part 740 of the EAR); or by a “military end-user,” as defined in paragraph (e) of this section, in Country Group D:1. This license requirement does not apply to exports or reexports of items for the official use by personnel and agencies of the U.S. Government or agencies of a cooperating government. See § 740.11(b)(3) of the EAR for definitions of “agency of the U.S. Government” and “agency of a cooperating government”.

(b) *Additional prohibition on exporters or reexporters informed by BIS.* BIS may inform an exporter or reexporter, either individually by specific notice or through amendment to the EAR, that a license is required for export or reexport of items described in ECCN 3A991.a.1 to specified end-users, because BIS has determined that there is an unacceptable risk of diversion to the uses or users described in paragraph (a) of this section. Specific notice is to be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by a written notice within two working days signed by the Deputy Assistant Secretary for Export Administration. The absence of any such notification does not excuse the exporter or reexporter from compliance with the license requirements of paragraph (a) of this section.

(c) *License review standards.* There is a presumption of denial for applications to export or reexport items subject to this section.

(d) *Military end-use.* In this section, the phrase “military end-use” means incorporation into: a military item described on the U.S. Munitions List (USML) (22 CFR part 121, International Traffic in Arms Regulations) or the International Munitions List (IML) (as set out on the Wassenaar Arrangement website at <http://www.wassenaar.org>); commodities listed under ECCN’s ending in “A018” on the Commerce Control List (CCL) in Supplement No. 1 to part 774 of the EAR; or any item that is designed for the “use”, “development”,

“production”, or deployment of military items described on the USML, the IML, or commodities listed under ECCN’s ending in “A018” on the CCL. Supplement No. 1 of this part lists examples of ‘military end-use.’

(e) *Military end-user.* In this section, the term “military end-user” means the national armed services (army, navy, marine, air force, or coast guard), as well as the national guard and national police, government intelligence or reconnaissance organizations, or any person or entity whose actions or functions are intended to support “military end-uses” as defined in paragraph (d) of this section.

(f) *Exceptions.* No License Exceptions apply to the prohibitions described in paragraphs (a) and (b) of this section.

[68 FR 1797, Jan. 14, 2003]

§ 744.18 Restrictions on exports, reexports, and transfers to persons designated in or pursuant to Executive Order 13315.

Consistent with Executive Order (E.O.) 13315 of August 28, 2003 (“Blocking Property of the Former Iraqi Regime, Its Senior Officials and Their Family Members, and Taking Certain Other Actions”), BIS maintains restrictions on exports, reexports, and transfers to persons designated in or pursuant to E.O. 13315. These persons include individuals and entities listed in the Annex to Executive Order 13315, as well as persons subsequently designated pursuant to criteria set forth in the order. OFAC includes the names of persons designated pursuant to E.O. 13315 in Appendix A to 31 CFR Chapter V, which lists persons subject to various sanctions programs administered by OFAC. All persons designated in or pursuant to E.O. 13315 are identified in Appendix A by the bracketed initials [IRAQ2].

(a) *License Requirements.* (1) A license requirement applies to the export, reexport, or transfer of any item subject to the EAR to—

(i) Persons listed in the Annex to E.O. 13315 of August 28, 2003; or

(ii) Persons determined to be subject to E.O. 13315.

(2) To avoid duplication, U.S. persons are not required to seek separate BIS authorization for an export, reexport,